

COMMITTEE OF OCCUPATIONAL THERAPY
MINUTES

DATE: November 18, 2005

TIME: 9:00 a.m. C.D.T.

LOCATION: Tennessee Room
Ground Floor, Cordell Hull Building
425 Fifth Avenue North
Nashville, TN 37247-1010

MEMBERS PRESENT: Anne Brown, Chair
Susan McFadden
Susan Pech, Secretary

MEMBERS ABSENT: Robbie Bell, Ex Officio

STAFF PRESENT: Marva Swann, Unit Director
Mary V. Webb, Board Administrator
Nicole Armstrong, Advisory Attorney
Rainey Irwin, Litigating Attorney
Jerry Kosten, Regulations Manager
Lea Ann Phelps, Disciplinary Coordinator

GUEST(S): Mike Harkreader, TNPAP Representative
Lorry Kleinfield, Educator
Tangent Johnson, Applicant
Yvette Hechtl, OT, Board Consultant

With a quorum being present, Ms. Brown called the meeting to order at 9:10 a.m.

Office of General Counsel

Ms. Armstrong advised the Committee of the Conflict of Interest policy and for anyone who had not signed a form as to their acknowledgement of said policy to do so.

Ms. Armstrong presented the OGC report and currently for the Committee of Occupational Therapy, effective December 25, 2005, rule 1150-2-.01, .03 through .09, .11, .14 through .19 - regarding changing the reference to practitioners as "licensed" rather than "certified".

The Attorney General has under review rule 1150-2-.05 - regarding criminal background checks for applicants for initial licensure.

There is a roll call vote scheduled regarding rule 1150-2-.02, .03, .06, .13 - regarding complaint filing, necessity of licensure for instructors, fee decrease.

The Office of General Counsel currently has one (1) open case pertaining to the Board of Occupational and Physical Therapy Examiners. The one (1) case involves an Occupational Therapy Assistant.

OGC Contested Cases/Agreed Order(s)/Consent Orders(s)/Order of Compliance

OGC Litigating Attorney Rainey Irwin, presented the Committee with an agreed order on Berenda Ragan, OTA. Ms. Ragan entered into an agreed order of probation, docket no. 17.22-0256914A, on or about May 14, 2004. Part of the agreement was for Ms. Ragan to have an assessment/evaluation with the Tennessee Professional Assistance Program (TNPAP) and follow all recommendations. TNPAP required Ms. Ragan to sign a three (3) year contract for monitoring. Ms. Ragan was also required to abstain from mood altering substances. On or about September 7, 2004, Ms. Ragan tested positive for cocaine. Ms. Ragan refused to another evaluation and refused to comply with the terms of her TNPAP contract. On or about November 19, 2004 Ms. Ragan was dismissed from TNPAP for non-compliance with her contract.

Ms. Ragan was found guilty of violating Tenn. Code Ann. 63-13-209 (a):

- (1) - Unprofessional, dishonorable, or unethical conduct.
- (2) - Violation of Board order

For such conduct as outlined Ms. Ragan's license was revoked and revocation of her license shall be for a period of two (2) years.

A motion was made by Ms. McFadden and seconded by Ms. Pech to accept the agreed order. The motion carried.

Office of Investigations

Ms. Lea Ann Phelps, Disciplinary Coordinator, presented to the board the disciplinary/investigative reports:

Disciplinary Report – There is currently one occupational therapist and one (1) occupational therapist assistant being monitored.

Investigative Report – There are currently two (2) open complaints in the Office of Investigations.

Financial Report

Ms. Webb presented the financial report which indicated that the Committee had a cumulative projected surplus as of June 30, 2005 of \$475,085.16.

Legislation

Jerry Kosten, Regulations Manger, presented the Committee with a roll call vote for the rulemaking hearing that was held on October 26, 2005 regarding the following:

A requirement for teachers of occupational therapy to be licensed; fee decrease; an advertising rule (required by legislation), complaint filing

The complaint rule was dropped at the discretion of Ms. McFadden after Jerry Kosten advised the Committee that they should review the comments regarding the proposed complaint rule.

Ms. McFadden wanted to know if any other board had received any comments regarding posting complaints? Mr. Kosten answered no.

Ms. McFadden asked Mr. Kosten if using a non occupational therapy degree with ones name when advertising is misleading? Mr. Kosten answered no.

A motion was made by Ms. McFadden and seconded by Ms. Pech to present a

brochure regarding complaint filing at the next board meeting. The motion carried.

A motion was made by Ms. McFadden and seconded by Ms. Pech to accept the rules as amended. The motion carried.

All board members responded by saying "aye" to adopt the amended rule:

Ann Brown, "Aye"
Susan McFadden, "Aye"
Susan Pech, "Aye"

Minutes

A motion was made by Ms. Pech and seconded by Ms. McFadden to accept the August 19, 2005 minutes. The motion carried.

Applicant Interviews/File Reviews

Tangent Johnson - Ms. Johnson's file was brought before the board for a past conviction that occurred in 1999 for leaving the scene of an accident and in 2003 for driving without a license. Ms. Johnson explained to the Committee that she takes full responsibility for her mistakes that she made in the past. Ms. Johnson stated that she left the scene of the accident to go to a nearby pay phone to call for help and by that time a police officer was approaching her.

Ms. Pech asked Ms. Johnson if she had a special type of insurance for driving.

Ms. Johnson answered as far as she knows she has no special insurance.

Ms. Pech stated that since Ms. Johnson is working at NHC she would have to drive to get to work.

Ms. Johnson replied that she very confident with her driving.

Ms. Johnson explained to the Committee that she was not paying her court costs in a timely manner and that is what caused her to lose her drivers license. Ms. Johnson stated that since this time she has received her license back.

Ms. McFadden stated that she does not understand why Ms. Johnson did not

seem to be too concerned regarding the accident and not having any insurance.

Ms. Johnson replied that she would never do something like that again and that these incidents happened several years ago when she was younger. Ms. Johnson stated that she is older now and with children of her own and realized that the decision that she made to leave the scene of the accident and to drive without a license was poor judgment on her behalf.

Ms. McFadden would like for Ms. Johnson to get a TNPAP evaluation and asked Mr. Harkreader, Representative of TNPAP, what type of evaluation he felt that Ms. Johnson would benefit from.

Mr. Harkreader explained to the Committee that TNPAP offers a variety of types evaluations depending on what the circumstances of the offense that was committed. Mr. Harkreader suggested that Ms. Johnson could possibly benefit from having a psychological examination.

Ms. Pech stated that she does not feel that Ms. Johnson understands the severity of the offenses that she committed.

Ms. Johnson replied that she does understand the seriousness of her previous actions and realize that she used poor judgment and that she regrets that she left the scene of the accident in 1999.

Ms. Armstrong explained to the Committee once the if the TNPAP evaluation was positive then the Board may issue Ms. Johnson her "go to work letter" with special conditions if they wish.

A motion was made by Ms. Pech and seconded Ms. McFadden to deny Ms. Johnson a license and for her to get a TNPAP evaluation.

Discussion

Students performing physical agent modalities was deferred until the next scheduled board meeting.

Continued Competence Guidelines - Ms. Lorry Kleinfeld, Educator and Continued Competence Task Force Member, was called to the podium to explain the continued competence guidelines that she had been working on for the Committee.

Ms. Kleinfeld raised the issue of rule 1150-2-.12 (4), delivery of services. Ms. McFadden stated that the delivery of services are her clients and not students.

Yvette Hechtl, OT Board Consultant explained that she felt this role also included education and that her role as an educator made her students her clients.

Ms. Brown wanted the continued competence guidelines to model NBCOT guidelines as closely as possible.

Ms. Brown suggested that there be a disclaimer stating that the guidelines can be changed.

A motion was made by Ms. McFadden and seconded by Ms. Pech to adopt the amended guidelines and to request that Jerry Kosten and staff work on the guidelines to format them and get them in the mail to all active licensees by January 2006. The motion carried.

Students Performing physical agent modalities - Deferred until the next scheduled board meeting.

The availability of the ethics and jurisprudence - Ms. Brown wanted a report regarding how often other Committees required the licensees to take the ethics and jurisprudence courses. This discussion will be put back on the agenda for the next scheduled board meeting.

Ratifications

A motion was made by Ms. McFadden and seconded by Ms. Pech to approve the newly licensed and reinstated occupational therapists and occupational therapist assistants and modality certifications. The motion carried.

Adjournment

There being no further business, the meeting was adjourned at 11:45 a.m.

Susan Pech, OT Secretary